

TITLE 43. PROFESSIONS AND BUSINESSES
CHAPTER 47. USED MOTOR VEHICLE AND USED MOTOR VEHICLE PARTS
DEALERS

§ 43-47-1. Short title

This chapter shall be known and may be cited as the "Used Motor Vehicle Dealers' and Used Motor Vehicle Parts Dealers' Registration Act."

HISTORY: Ga. L. 1958, p. 55, § 1; Ga. L. 1995, p. 441, § 1; Ga. L. 1999, p. 81, § 43.

§ 43-47-2. Definitions

As used in this chapter, the term:

(1) "Board" means the State Board of Registration of Used Motor Vehicle Dealers and Used Motor Vehicle Parts Dealers.

(2) "Dismantler" means any person, partnership, limited liability company, firm, or corporation engaged in the business of acquiring wrecked, abandoned, or reparable motor vehicles and selling either the usable parts, the motor vehicle as a unit, or the hulk of the motor vehicle after the usable parts have been removed. Without limiting any of the foregoing, for the purposes of this chapter, a person, partnership, limited liability company, firm, or corporation shall be presumed to be engaged in the business of auto dismantling if he, she, or it possesses ten or more inoperative motor vehicles for more than 45 days unless such vehicles are scrap vehicles being held by a scrap metal processor for recycling scrap metal, vehicles awaiting repairs being held by a repair business, or vehicles being held for other reasons as may be prescribed by the board.

(3) "Established place of business" means a salesroom or sales office in a building or on an open lot of a retail used car dealership or at which a permanent business of bartering, trading, offering, displaying, selling, buying, dismantling, or rebuilding wrecked or used motor vehicles or parts is carried on, or the place at which the books, records, and files necessary to conduct such business are kept. Each such place of business shall be furnished with a working telephone listed in the name of the licensee for use in conducting the business and shall be marked by an appropriate permanent sign as prescribed by the appropriate division under this chapter.

(4) "Financial institution" means a finance company or a banking institution or any subsidiary of a finance company or banking institution which engages solely in the financing or leasing of motor vehicles. Such term shall not mean a pawnbroker as such term is defined in Code Section 44-12-130.

(5) "Licensee" means any person who is required to be licensed or who is actually

licensed under this chapter.

(6) "Major component part" means one of the subassemblies of a motor vehicle as defined in paragraph (9) of Code Section 40-3-2.

(7) "Motor vehicle" or "car" means every vehicle which is self-propelled and required to be registered under the laws of this state, except trackless trolleys (which are classified as streetcars), airplanes, motorboats, motorcycles, motor driven cycles, or go-carts.

(8) "Motor vehicle broker" means a person who, for a commission or with the intent to make a profit or gain of money or other thing of value, negotiates or attempts to negotiate the sale of a motor vehicle on behalf of another. Such term shall not mean any person engaged in the solicitation, negotiation, or advertising of the sale of used motor vehicles or any owner of real property who allows the display of used motor vehicles on such property if the sale of such vehicles is made by a used car dealer or a financial institution.

(9) "Part" means any used motor vehicle part that has been installed as standard or optional equipment on a motor vehicle, has been removed from the motor vehicle on which it was originally attached or affixed, and is the subject of sale or resale as a part and not as scrap.

(10) "Person" means any individual, partnership, limited liability company, firm, association, corporation, or combination of individuals of whatever form or character.

(11) "Rebuilder" means any person, partnership, limited liability company, firm, or corporation engaged in the business of buying salvage or wrecked motor vehicles for the purpose of restoring or rebuilding them with used or new motor vehicle parts, or both, to be sold as motor vehicles.

(12) "Salvage dealer" means any person, firm, or corporation who purchases a salvage vehicle or parts of a salvage vehicle for purposes of resale as parts only or as salvage.

(13) "Salvage pool" or "salvage disposal sale" means a sale at auction or by private bid of wrecked or reparable motor vehicles, either at wholesale or retail, by insurance companies, underwriters, or dealers.

(14) "Salvage vehicle" means any vehicle which:

(A) Has been damaged, crushed, or otherwise reduced to such a state that its restoration would require the replacement of two or more major component parts;

(B) Has been acquired by an insurance company as a result of the vehicle's being damaged to the extent that its restoration to an operable condition would require the replacement of two or more major component parts or for which the insurance company has paid a total loss claim, excluding recovered total theft vehicles which do not require the replacement of two or more major component parts for restoration; or

(C) Is an imported vehicle which has been damaged in shipment and disclaimed by the manufacturer as a result of the damage, has never been the subject of a retail sale to a consumer, and has never been issued a certificate of title.

(15) "Scrap vehicle" means any vehicle which has been wrecked, destroyed, or damaged to the extent that it cannot be economically repaired, rebuilt, or made operable or roadworthy.

(15.1) "Temporary site" means a location at which used motor vehicles are sold or offered for sale for which a temporary site permit has been issued by the board in accordance with Code Section 43-47-8.2 and which location is:

(A) Used for a period not to exceed 96 hours in any 30 day period of time;

(B) Located in the county in which the established place of business of the used motor vehicle dealer using the temporary site is located or an adjoining county; and

(C) Used not more than three times in any calendar year.

(16) "Used motor vehicle" or "used car" means any motor vehicle or car other than a motor vehicle which has never been the subject of a retail sale by a new motor vehicle dealer or a used motor vehicle dealer and which is the subject of a retail sale to a consumer for his or her own use or of a resale to another licensed dealer.

(17)(A) "Used motor vehicle dealer," "used car dealer," or "licensee" means any person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, rents with option to purchase, offers, or attempts to negotiate a sale or exchange of an interest in used motor vehicles or who is engaged wholly or in part in the business of selling used motor vehicles, whether or not such motor vehicles are owned by such person. A motor vehicle wholesaler and a motor vehicle broker shall be deemed to be a used motor vehicle dealer or a used car dealer for the purposes of this chapter. Any independent motor vehicle leasing agency which sells or offers for sale used motor vehicles shall be deemed to be a used motor vehicle dealer or a used car dealer for the purposes of this chapter. Any motor vehicle auction company selling or offering for sale used motor vehicles to independent motor vehicle dealers or to individual consumers shall be deemed to be a used motor vehicle dealer or used car dealer for the purposes of this chapter except as otherwise provided in division (x) of subparagraph (B) of this paragraph. Without limiting any of the foregoing, the sale of five or more used motor vehicles in any one calendar year shall be prima-facie evidence that a person is engaged in the business of selling used motor vehicles. Financial institutions as used in this chapter shall not include a pawnbroker as defined in Code Section 44-12-130; provided, however, that a pawnbroker who disposes of all repossessed motor vehicles by selling or exchanging his or her interest in such motor vehicles only to licensees under this chapter shall not be considered a used motor vehicle dealer under this chapter as long as such pawnbroker does not otherwise engage in activities which would bring him or her under the licensing requirements of this chapter.

(B) Used motor vehicle dealer or used car dealer does not include:

(i) Franchised motor vehicle dealers and their wholly owned and controlled subsidiaries operating in the county in which their franchise is located or operating as a direct dealer of a manufacturer;

(ii) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;

(iii) Public officers while performing their official duties;

(iv) Persons disposing of motor vehicles acquired for their own use when the same shall have been acquired and used in good faith and not for the purpose of avoiding the provisions of this chapter. Evidence of good faith, as provided in this division, shall consist of the fact that the vehicle is properly titled and registered in the name of the transferor;

(v) Financial institutions when the financial institution sells its repossessed or leased motor vehicles. Finance companies, for purposes of this chapter, shall not include a pawnbroker as defined in Code Section 44-12-130;

(vi) Insurance companies who sell motor vehicles to which they have taken title as an incident of payments made under policies of insurance;

(vii) Persons, firms, or corporations who act as agents for insurance companies for the purpose of soliciting insurance for motor vehicles;

(viii) Persons, firms, or corporations engaged in a business other than as a used car dealer, as defined in divisions (i) through (vii) of this subparagraph, who sell motor vehicles traded in as a part of the purchase price of an article other than a motor vehicle and which have not been acquired by direct purchase for cash, and which business is not for the purpose of violating this chapter;

(ix) Persons, firms, or corporations which sell only vehicles which will not be used primarily for transportation purposes, including, but not limited to, antique automobiles, classic automobiles, and automobiles sold solely as speculative investments. In determining whether a vehicle or vehicles will not be used primarily for transportation purposes, the board may rely on the representations, written or oral, made regarding the vehicles, but may also look at any other relevant evidence; or

(x) Persons licensed or companies registered under Chapter 6 of this title, relating to auctioneers, when auctioning used motor vehicles which are being disposed of under administration of an estate or when auctioning used motor vehicles and real property at the same sale when such vehicles and property are owned by a common owner.

(18) "Used motor vehicle parts dealer" or "used parts dealer" means any person, partnership, limited liability company, firm, or corporation buying, selling, or using motor vehicle parts, either as a used motor vehicle parts dealer, a motor vehicle dismantler, a motor vehicle rebuilder, a salvage pool dealer, or a salvage dealer.

(19) "Wholesaler" means a person who sells or distributes used motor vehicles to motor vehicle dealers in this state, has a sales representative in this state, or controls any person who offers for sale, sells, or distributes any used motor vehicles to motor vehicle dealers in this state.

HISTORY: Ga. L. 1958, p. 55, § 2; Ga. L. 1968, p. 23, §§ 1, 2; Ga. L. 1980, p. 1286, § 1; Ga. L. 1983, p. 550, § 1; Ga. L. 1988, p. 1504, § 1; Ga. L. 1989, p. 154, § 1; Ga. L. 1990, p. 1032, § 1; Ga. L. 1991, p. 983, §§ 1, 2; Ga. L. 1993, p. 123, § 59; Ga. L. 1994, p. 1060, § 1; Ga. L. 1995, p. 441, § 1; Ga. L. 1997, p. 530, § 1; Ga. L. 1998, p. 128, § 43; Ga. L. 1998, p. 1662, §§ 1, 2; Ga. L. 2004, p. 452, § 4; Ga. L. 2005, p. 321, § 5/HB 455; Ga. L. 2006, p. 465, § 3/HB 1052.

§ 43-47-3. Creation of board; composition; terms of office; vacancies; election of chairperson; divisions

(a) There is created a State Board of Registration of Used Motor Vehicle Dealers and Used Motor Vehicle Parts Dealers. The board shall be comprised of 15 members:

- (1) Three members shall be independent used car dealers;
- (2) Three members shall be appointed from the public at large and shall have no connection whatsoever with the sale of used cars or parts;
- (3) The state revenue commissioner, or a designated agent, shall be a permanent ex officio member and shall be authorized to vote on all matters before the board;
- (4) The administrator of Part 2 of Article 15 of Chapter 1 of Title 10, the "Fair Business Practices Act of 1975," or a designated agent, shall be a permanent ex officio member and shall be authorized to vote on all matters before the board;
- (5) One member shall be a representative of the automobile auction industry;
- (6) One member shall be an auto salvage pool operator;
- (7) Two members shall be used motor vehicle parts dealers who are not rebuilders;
- (8) One member shall be a rebuilder;
- (9) One member shall be a pawnbroker as defined in Code Section 44-12-130 who is in the business of pawning automobile titles and is licensed as a used car dealer; and
- (10) One member shall be a representative of the automobile insurance industry.

(b) The members of the board referred to in paragraphs (1), (2), (5), (6), (7), (8), (9), and (10) of subsection (a) of this Code section shall be appointed by the Governor and shall take office on July 1, 1995, or as soon thereafter as appointed. The initial terms of those 13 appointed members shall expire as follows: three on June 30, 1996; three on June 30, 1997; three on June 30, 1998; and four on June 30, 1999. Thereafter, the appointed members of the board shall serve terms of four years. All members shall be residents of this state. No more than two of the appointed members shall be from the same congressional district. The terms of the two ex officio members shall be coextensive with their terms of office.

(c) Any vacancies on the board shall be filled by the Governor for the remainder of the unexpired term. The members of the board shall annually elect one of their number to serve as chairperson for a term of two years. The board chairperson shall not also serve contemporaneously as the chairperson of either division under this chapter. The first term as chairperson of the board shall be served by a member or members elected from either division under this chapter; thereafter, the chairperson for each succeeding term shall not be elected from the same division as that of the chairperson from the immediately preceding term. In the event a chairperson of the board is unable to complete his or her term, his or her successor for the remainder of the term shall be elected from the same division as was the chairperson who is unable to complete the term. The chairperson of the board shall be an ex officio member of both divisions under this chapter, however, the chairperson of the board shall not be counted for purposes of determining whether a quorum is present in the division meeting for the division in which he or she is not a regular member.

(d)(1) The board shall be composed of two divisions, a used car division and a used parts division.

(2) The members of the used car division shall be the three independent used car dealers, two of the members from the public at large, the state revenue commissioner or a designated agent, the administrator of Part 2 of Article 15 of Chapter 1 of Title 10, the "Fair Business Practices Act of 1975," or a designated agent, the representative of the automobile auction industry, and the pawnbroker. All powers and duties relating to used car dealers which are not specifically reserved to the board shall be assigned to the used car division. The used car division shall elect one of its members to serve as chairperson of the division for a period of one year.

(3) The members of the used parts division shall be the third member from the public at large, the state revenue commissioner or a designated agent, the auto salvage pool operator, the two used motor vehicle parts dealers who are not rebuilders, the rebuilder, and the representative of the automobile insurance industry. All powers and duties relating to used parts dealers which are not specifically reserved to the board shall be assigned to the used parts division. The used parts division shall elect one of its members to serve as chairperson of the division for a period of one year.

(4) The chairperson of the board shall determine which of the two members from the public at large will serve in the used car division and which shall serve in the used parts

division.

HISTORY: Ga. L. 1980, p. 1286, § 1; Ga. L. 1988, p. 1504, § 2; Ga. L. 1989, p. 154, § 2; Ga. L. 1990, p. 1903, § 9; Ga. L. 1990, p. 2423, § 1; Ga. L. 1994, p. 1060, § 2; Ga. L. 1995, p. 441, § 1; Ga. L. 1996, p. 6, § 43; Ga. L. 2002, p. 415, § 43; Ga. L. 2005, p. 334, § 25-4/HB 501.

§ 43-47-4. Division director as secretary of board

The division director shall be the secretary of the board and of the divisions. He or she shall issue licenses and certificates and perform such other duties as the board or the divisions may direct to carry out this chapter.

HISTORY: Ga. L. 1958, p. 55, § 5; Ga. L. 1995, p. 441, § 1; Ga. L. 2000, p. 1706, § 19.

§ 43-47-5. Reimbursement of board members

The members of the board shall be reimbursed for their duties as board members and as division members as provided for in subsection (f) of Code Section 43-1-2.

HISTORY: Ga. L. 1958, p. 55, § 6; Ga. L. 1981, p. 767, § 1; Ga. L. 1995, p. 441, § 1.

§ 43-47-6. General powers and duties of board

All powers and duties under this chapter not specifically reserved to the board shall be the powers and duties of the division. The board shall have the following powers and duties:

- (1) To receive applications for registration of licensees and to forward them to the appropriate division;
- (2) To make such rules and regulations as may be necessary to effectuate the administration and enforcement of this chapter;
- (3) To arrange for all new applicants to have a criminal background check, which background check shall be mandatory. The applicant's fingerprints shall be forwarded to the Georgia Crime Information Center which shall run a criminal background check on the applicant and provide the results of the background check to the board. Additionally, the applicant's fingerprints will be forwarded to the Federal Bureau of Investigation for a national criminal history record check;
- (4) To publish on or before September 1 of each year an alphabetical listing of all licensees pursuant to this chapter and to distribute copies of the same, if requested, to the Department of Public Safety, the Department of Revenue, and the Georgia Bureau of Investigation, to all sheriffs in this state, and to all county and municipal police departments in this state;
- (5) To establish a fee for a license for each principal place of business and a fee for a

supplemental license for each place of business not immediately adjacent to the principal place of business. The board may establish separate schedules of fees for such licenses depending on whether the applicant begins to do business as a licensee prior to or after the issuance of any such license; and

(6) To do all other things necessary and proper to carry out the powers and duties listed in this Code section.

HISTORY: Ga. L. 1958, p. 55, § 7; Ga. L. 1968, p. 23, § 5; Ga. L. 1981, p. 767, § 2; Ga. L. 1987, p. 369, § 1; Ga. L. 1995, p. 441, § 1.

§ 43-47-7. Required license; records

(a) It shall be unlawful for any person to operate as a used motor vehicle dealer in this state without first registering and obtaining a license from the used car division as provided in this chapter.

(b) It shall be unlawful for any person to operate as a used motor vehicle parts dealer in this state without first registering and obtaining a license from the used parts division as provided in this chapter.

(c) It shall be unlawful for any used car dealer or any used parts dealer willfully to fail to keep the records required to be kept by this chapter.

HISTORY: Ga. L. 1958, p. 55, § 3; Ga. L. 1968, p. 23, § 3; Ga. L. 1983, p. 550, § 2; Ga. L. 1988, p. 1504, § 3; Ga. L. 1989, p. 14, § 43; Ga. L. 1989, p. 154, § 3; Ga. L. 1995, p. 441, § 1.

§ 43-47-8. (For effective date, see note) License applications; prerequisites; license fees; renewal; training or test; supplemental licenses; bonds; insurance; suspension for conviction or false statement; meetings

(a) Applications for a license shall be made to the board, shall contain the information required by this chapter, and shall be accompanied by the fee prescribed by the board. Each applicant for a new license shall submit to the board such information as may be required by the Georgia Crime Information Center and by the Federal Bureau of Investigation, including classifiable sets of fingerprints, an affidavit by the applicant disclosing the date and nature of any conviction for the violation of any crime involving violence, a used motor vehicle, illegal drugs, tax evasion, failure to pay taxes, or any crime involving the illegal use, carrying, possession of a dangerous weapon, or moral turpitude, and such fees as may be set by the Georgia Crime Information Center and by the Federal Bureau of Investigation for a records check comparison by the Georgia Crime Information Center and by the Federal Bureau of Investigation. Application for a license under this chapter shall constitute consent for performance of a records check comparison.

(b) A division under this chapter shall not issue or renew any license unless the applicant or holder thereof shall show that he or she maintains an established place of business as

defined in Code Section 43-47-2.

(c) All licenses issued under this chapter shall be renewable biennially. The divisions may establish continuing education requirements for license renewals.

(d) Each division may require either that within the preceding year the applicant has attended a training and information seminar approved by the division or that the applicant has passed a test approved by the division and administered by the division director. Such seminar or test, if required, shall include, but shall not be limited to, dealer requirements of this chapter, including books and records to be kept; requirements of the Department of Revenue; and such other information as in the opinion of the division will promote good business practices. No seminar shall exceed one day in length.

(e) Supplemental licenses shall be issued for each place of business operated or proposed to be operated by the licensee that is not contiguous to other premises for which a license is issued.

(f) Each application for a license shall also show that the licensee has obtained, or has applied for, a certificate of registration, Department of Revenue Form ST-2, commonly known as a sales tax number certificate. The board shall not renew any license unless the applicant or holder thereof shall show that he or she maintains a certificate of registration, Department of Revenue Form ST-2, under the laws of this state providing for issuance of such certificates.

(g) Each application for a license shall show that the prospective licensee has or has made provision for a bond. The required bond shall be executed with a surety company duly authorized to do business in this state and shall be payable to the Governor for the use and benefit of any purchaser and vendees or successors in title of any used motor vehicle and shall be conditioned to pay all loss, damages, and expenses that may be sustained by such purchaser, his or her vendees, or successors in title that may be occasioned by reason of any misrepresentation, deceptive practice, or unfair practice or by reason of any breach of warranty as to such used vehicle.

(h) (For effective date, see note) The bond shall be in the amount of \$35,000.00 for used car dealers and \$10,000.00 for used parts dealers and shall be filed, immediately upon the granting of the license, with the division director by the licensee and shall be approved by the division director as to form and as to the solvency of the surety. The prospective licensee may file the required bond with the division director for the division director's approval prior to the granting of a license.

(i) No licensee shall cancel, or cause to be canceled, a bond issued pursuant to this Code section unless the appropriate division is informed in writing by a certified letter at least 30 days prior to the proposed cancellation.

(j) If the surety or licensee cancels the bond and the licensee fails to submit, within ten days of the effective date of the cancellation, a new bond, the division may revoke his or

her license.

(k) Each application for a license shall show that the licensee maintains public liability and property damage insurance with liability limits of not less than \$50,000.00 per person and \$100,000.00 per accident, personal insurance liability coverage, and \$25,000.00 property damage liability coverage. Any licensee under Chapter 6 of this title shall be exempt from the requirements of this subsection.

(l) Each division may authorize the division director to issue a license when he or she has received the bond required by subsections (g) and (h) of this Code section, the proof of insurance required by subsection (k) of this Code section, and a fingerprint card for submission to the Georgia Crime Information Center and to the Federal Bureau of Investigation. Each completed application for a permanent license shall be reviewed by the appropriate division, which may deny licensure for any good reason under this chapter. Any other provision of law to the contrary notwithstanding, each applicant for a license pursuant to the provisions of this Code section shall agree in writing in the application that if the applicant makes a false statement on the application or if the criminal record check returned from the Georgia Crime Information Center or from the Federal Bureau of Investigation reveals a conviction of or an entry of a plea of nolo contendere to a crime involving the use of violence, a used motor vehicle, or illegal drugs; tax evasion or failure to pay taxes; any crime involving the illegal use or possession of a dangerous weapon; or any crime involving moral turpitude, then the division shall be authorized to suspend the license without a prior hearing. The divisions shall each meet as needed, in their discretion. The board shall meet at least once each quarter and upon the call of the board chairperson for any special sessions.

HISTORY: Ga. L. 1958, p. 55, § 8; Ga. L. 1960, p. 801, § 1; Ga. L. 1960, p. 980, § 1; Ga. L. 1968, p. 23, § 8; Ga. L. 1974, p. 1240, § 1; Ga. L. 1983, p. 550, §§ 3, 4; Ga. L. 1984, p. 22, § 43; Ga. L. 1985, p. 975, § 1; Ga. L. 1987, p. 369, § 2; Ga. L. 1988, p. 1504, § 4; Ga. L. 1991, p. 983, § 3; Ga. L. 1992, p. 2450, §§ 2, 3; Ga. L. 1995, p. 441, § 1; Ga. L. 1996, p. 6, § 43; Ga. L. 2000, p. 1706, § 19; Ga. L. 2002, p. 415, § 43; Ga. L. 2005, p. 334, § 25-5/HB 501; Ga. L. 2006, p. 688, § 1/HB 1075.

§ 43-47-8.1. Penalty

Any person who violates any provision of Code Section 40-2-39.1 shall be deemed to be a licensee for the purpose of imposing sanctions and penalties under this chapter and for the purpose of granting the board jurisdiction over such violator.

HISTORY: Code 1981, § 43-47-8.1, enacted by Ga. L. 1998, p. 1662, § 3; Ga. L. 2007, p. 214, § 1/HB 144.

§ 43-47-8.2. Place of business; temporary sites; penalties

(a) A used motor vehicle dealer shall not engage in any activity as a used motor vehicle dealer except at such dealer's established place of business which has been registered under Code Section 40-2-38, at temporary sites not more than three times in any one calendar year, or at a licensed auto auction or any licensed facility. This subsection shall not be construed to prohibit a used motor vehicle dealer from delivering a vehicle off site,

provided that the transaction is initiated from an established place of business under this chapter.

(b)(1) At least 60 days prior to opening a sale at a temporary site, a used motor vehicle dealer must make application to the board for a temporary site permit. A separate application must be submitted for every temporary site sale.

(2) To be eligible for a temporary site permit, a used motor vehicle dealer must be registered as required by Code Section 40-2-38. In order to obtain a temporary site permit, a used motor vehicle dealer must provide, on a form promulgated by the board:

(A) The address, including county, of the used motor vehicle dealer's established place of business;

(B) The address, including county, of the proposed temporary site location;

(C) The dates and hours of the temporary site sale;

(D) The number of temporary site sales already conducted by the used motor vehicle dealer during the calendar year in which the requested temporary site sale is to occur; and

(E) The name, address, and contact person of any sponsors, promoters, and lending institutions involved in or to be represented at the temporary site sale.

(3) As part of the application, a used motor vehicle dealer must submit written documentation demonstrating that the used motor vehicle dealer has complied with any licensing requirements applicable in the local jurisdiction in which the temporary site sale will occur and a copy of a written agreement with the owner of the real property where this sale will occur.

(4) A temporary site permit issued pursuant to this subsection shall be valid only for the dates and hours of the sale as indicated on the application submitted to the board and must be prominently displayed at the temporary site at all times during the site sale. No used motor vehicle dealer may purchase more than three temporary site permits within a calendar year. A temporary site permit is not transferable to any other dealer or location.

(5) The fee for each application for a temporary site permit shall be \$100.00.

(c) As an alternative to criminal or other civil enforcement of this Code section or any orders, rules, and regulations promulgated pursuant hereto, the board may issue an administrative fine not to exceed \$1,000.00 for each violation whenever the board, after a hearing, determines that any person has violated any provisions of this Code section or any orders, rules, and regulations promulgated pursuant hereto. If, after a hearing, the board determines that any person has violated this provision more than once, the board may suspend his or her license for a period not to exceed ten days. Any hearing and any administrative review held pursuant to this Code section shall be conducted in accordance with the procedure for contested cases under Chapter 13 of Title 50, the "Georgia

Administrative Procedure Act." Any person who has exhausted all administrative remedies available and who is aggrieved or adversely affected by a final order or action of the board shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50. All fines recovered under this Code section shall be paid into the state treasury. The board may file, in the superior court:

(1) In the county wherein the person under order resides;

(2) If such person is a corporation, in the county wherein the corporation maintains its established place of business; or

(3) In the county wherein the violation occurred,

a certified copy of a final order of the board, whether unappealed from or affirmed upon appeal, whereupon the superior court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and proceedings in relation thereto shall thereafter be the same as though the judgment had been rendered in an action duly heard and determined by the superior court. The penalty prescribed in this Code section shall be concurrent, alternative, and cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or penalties provided, allowed, or available to the board with respect to any violation of this Code section or any order, rule, or regulation promulgated pursuant hereto. For purposes of this Code section, the sale of each motor vehicle while not in compliance with temporary site permit requirements shall constitute a separate violation.

(d) Any person who violates any provision of this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine not to exceed \$1,000.00 or imprisonment for a period not to exceed 12 months, or both.

HISTORY: Code 1981, § 43-47-8.2, enacted by Ga. L. 1998, p. 1662, § 3; Ga. L. 2005, p. 321, § 6/HB 455.

§ 43-47-9. Contents of licenses; display of licenses; endorsement of change of business location on licenses

The licenses issued pursuant to this chapter shall specify the location of each place of business or branch or other location occupied or to be occupied by the licensee in conducting his or her business; and the license or supplemental license issued therefor shall be conspicuously displayed on each of such premises. In the event any such location is changed, the appropriate division shall endorse the change of location on the license without charge.

HISTORY: Ga. L. 1958, p. 55, § 10; Ga. L. 1995, p. 441, § 1.

§ 43-47-10. Investigation of licenses by board; suspension or revocation of license; other sanctions

The board or each division may, upon its own motion, and shall, upon the verified

complaint in writing of any person, investigate the actions of any licensee or anyone who shall assume to act in such capacity. Each division shall have power, in addition to the other powers authorized by this chapter, to revoke or to suspend a license for a specified time, to be determined in its discretion, or to invoke such other lesser sanctions, including but not limited to the imposition of fines and penalty fees, which the board is hereby authorized to create by rule, where:

(1) The licensee is found by a majority of the members of the board to have committed any one or more of the following:

(A) Material misstatement in an application for a license;

(B) Willful and intentional failure to comply with any provisions of this chapter or any lawful rule or regulation issued by the board under this chapter;

(C) Making any substantial misrepresentation;

(D) Making any false promises of a character likely to influence, persuade, or induce;

(E) Pursuing a continued and flagrant course of misrepresentation or the making of false promises through agents, salespersons, advertising, or otherwise;

(F) Failure to account for or to remit any moneys coming into his or her possession which belong to others;

(G) Having demonstrated unworthiness or incompetency to act as a licensee in such manner as to safeguard the interest of the public;

(H) Fraud or fraudulent practice, unfair and deceptive acts or practices, misleading acts or practices, or untrustworthiness or incompetency to act as a licensee, including, but not limited to, the failure to provide the appropriate odometer disclosure forms required by law or knowingly selling or offering for sale any used car on which the odometer has been tampered with to reflect lower than the actual mileage the car has been driven;

(I) The intentional use of any false, fraudulent, or forged statement or document or the use of any fraudulent, deceitful, dishonest, or immoral practice in connection with any of the licensing requirements as provided for in this chapter;

(J) The commission of any crime involving violence, a used motor vehicle, illegal drugs, tax evasion, failure to pay taxes, or any crime involving the illegal use, carrying, or possession of a dangerous weapon; the conviction of, plea of guilty to, or plea of nolo contendere to a crime involving violence, a used motor vehicle, illegal drugs, tax evasion, failure to pay taxes, or any crime involving the illegal use, carrying, or possession of a dangerous weapon shall be conclusive evidence of the commission of such crime;

(K) Use of untruthful or improbable statements or flamboyant or extravagant claims

concerning such licensee's excellence or abilities;

(L) The performance of any dishonorable or unethical conduct likely to deceive, defraud, mislead, unfairly treat, or harm the public;

(M) The use of any false or fraudulent statement in any document in connection with the business as a licensee;

(N) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any of the provisions of this chapter, including but not limited to (i) the failure to maintain the certificate of registration required by Code Section 43-47-8 and (ii) the failure to keep records required by this chapter;

(O) Any other conduct, whether of the same or a different character than heretofore specified, which constitutes dishonest dealing;

(P)(i) Any of the following activities by an automobile auction:

(I) Allowing a motor vehicle to be sold through an auction where the seller's name does not appear on the face of the title;

(II) Failing to refund all of the purchase price to the buyer when the title and tag receipt are not assigned to and processed for the buyer within 21 days of the purchase;

(III) Failing to make available to the board, for investigative purposes, auction records of a seller, for the purpose of determining if a seller sold more than five motor vehicles in a calendar year; provided, however, that the board shall give the auction reasonable notice during normal working hours;

(IV) Failing to disclose in a conspicuous manner on the bill of sale that a buyer is entitled to a refund of all of the purchase price when the title and tag receipt are not assigned and processed within 21 days of the purchase;

(V) Failing to include on the bill of sale any warranty disclaimer; or

(VI) Accepting or delivering a certificate of title signed in blank.

(ii) The provisions of this subparagraph shall not apply where:

(I) The sale of the motor vehicle is not open to the general public;

(II) Either the seller or purchaser of the vehicle is a licensed used car dealer;

(III) The motor vehicle is sold as a repossessed or abandoned vehicle; or

(IV) The motor vehicle is sold on behalf of any government agency or by court order.

(iii) A violation of this subparagraph shall also be grounds for suspension or censure of a license under Code Section 43-6-18, and any auction violating this subparagraph may be required by the board to surrender its master tag;

(Q) Acting to obtain or holding a license on behalf of another person who was previously denied a license or had a license suspended or revoked under this chapter; in making determinations under this subparagraph, the division may look at any competent evidence, including, but not limited to, who actually directs the activities at the business and who actually receives the proceeds from the business;

(R) Having purchased, concealed, possessed, or otherwise acquired or disposed of a vehicle, knowing the same to be stolen;

(S) Having failed to meet and maintain the requirements for issuance of a license as provided for in this chapter;

(T) Having failed to pay within 30 days after written demand from the board any fees or penalties due on vehicles acquired for dismantling or rebuilding; or

(U) Having willfully failed to keep or maintain the records required to be kept by this chapter; or

(2) A majority of the members of the division find that the licensee failed to establish, maintain, or monitor procedural safeguards to ensure that the following activities do not occur at the business, regardless of whether the licensee had actual knowledge of any such activity or activities or regardless of whether there was an intent on the part of any person to engage in any such activity or activities:

(A) Unfair and deceptive acts or practices as defined in Part 2 of Article 15 of Chapter 1 of Title 10, the "Fair Business Practices Act of 1975";

(B) Any of those activities described in paragraphs (1) through (5) of Code Section 40-3-90; or

(C) Failure to obtain a certificate of title for a purchaser.

HISTORY: Ga. L. 1958, p. 55, § 11; Ga. L. 1960, p. 801, § 3; Ga. L. 1968, p. 23, § 6; Ga. L. 1983, p. 550, § 5; Ga. L. 1988, p. 1504, § 5; Ga. L. 1991, p. 983, § 4; Ga. L. 1995, p. 441, § 1; Ga. L. 1996, p. 1289, § 1.

§ 43-47-11. Hearings before board as to suspension of or revocation of licenses

Except as provided in subsection (l) of Code Section 43-47-8, no license shall be suspended or revoked without a hearing in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

HISTORY: Ga. L. 1958, p. 55, § 12; Ga. L. 1995, p. 441, § 1; Ga. L. 1996, p. 6, § 43.

§ 43-47-11.1. Registration with commissioner of motor vehicle safety; application for dealer's registration plate

As provided by law, every licensee who transfers a used motor vehicle title within this state shall register with the state revenue commissioner, making application for a dealer's registration plate. No person not licensed in accordance with this chapter shall be entitled to receive or use any dealer's registration plates for motor vehicles under the motor vehicle laws of this state providing for the issuance of such plates.

HISTORY: Ga. L. 1958, p. 55, § 13; Ga. L. 1968, p. 23, § 9; Code 1981, § 43-47-12; Ga. L. 1983, p. 550, § 6; Code 1981, § 43-47-11.1, as redesignated by Ga. L. 1995, p. 441, § 1; Ga. L. 2002, p. 415, § 43; Ga. L. 2005, p. 334, § 25-6/HB 501.

§ 43-47-12. Maintenance of records by licensees; possession of vehicle or parts as evidence of purchase for resale

(a) Every licensee shall maintain for three years a record of:

(1) Every vehicle, vehicle body, chassis, or major component part of or for a vehicle received or acquired by him or her; its description and any identifying numbers; the date of its receipt or acquisition; and the full name, address, and driver's license number or social security number of the person from whom received or acquired; provided, however, that, in the event such purchase or acquisition is from a used car dealer or from a used motor vehicle parts dealer, the name and address of the corporation or company shall be sufficient if the seller is registered under this chapter;

(2) Every vehicle, vehicle body, chassis, or major component part disposed of by him or her; its description and any identifying numbers; the date of its receipt or acquisition; and the full name, address, and driver's license number or social security number of the person to whom disposed; provided, however, that, in the event such disposal is to a used car dealer or to a used motor vehicle parts dealer, the name and address of the corporation or company shall be sufficient if the purchaser or acquirer is registered under this chapter;

(3) Every vehicle wrecked, dismantled, or crushed by him or her and the date of its wrecking or dismantling; and

(4) Any other records which the appropriate division may reasonably require to protect the public, as relating to the licensee's method of operation and personnel employed.

(b) The possession of motor vehicles or parts covered by this chapter shall be prima-facie evidence that they were purchased for the purpose of resale.

HISTORY: Code 1981, § 43-47-12, enacted by Ga. L. 1995, p. 441, § 1.

§ 43-47-13. Local regulation and licensing

Nothing in this chapter shall prohibit any lawful regulation or licensing of licensees by any municipality, county, or other political subdivision of this state; provided, however, that no such political subdivision shall license any licensee required to be registered by this chapter unless such licensee is properly licensed under this chapter.

HISTORY: Ga. L. 1958, p. 55, § 15; Ga. L. 1968, p. 23, § 10; Code 1981, § 43-47-14; Ga. L. 1985, p. 975, § 2; Code 1981, § 43-47-13, as redesignated by Ga. L. 1995, p. 441, § 1.

§ 43-47-14. Fines for violation of chapter

Each division or the board may impose a fine not to exceed \$500.00 for each violation of any provision of this chapter. Such fines shall be listed in a schedule contained in the rules and regulations of the board. The licensee shall pay the fine within 30 days after receiving written notification from either the appropriate division or a representative of the division unless the licensee requests in writing a hearing before the division. Such request for a hearing must be received by the division within 30 days after receipt of the written notification from the division. Failure either to pay the fine or request a hearing shall result in immediate suspension of the license pending a hearing by the board to determine whether revocation or other disciplinary action should be imposed on the licensee.

HISTORY: Code 1981, § 43-47-14, enacted by Ga. L. 1995, p. 441, § 1.

§ 43-47-15. Compliance with "Motor Vehicle Certificate of Title Act" required

Any licensee who purchases a wrecked or salvage motor vehicle or rebuilds a wrecked or salvage motor vehicle shall fully comply with Chapter 3 of Title 40, the "Motor Vehicle Certificate of Title Act," regarding titling and inspection of salvage and rebuilt vehicles, and shall comply with any rules and regulations adopted by the state revenue commissioner pursuant to this chapter.

HISTORY: Code 1981, § 43-47-15, enacted by Ga. L. 1995, p. 441, § 1; Ga. L. 2002, p. 415, § 43; Ga. L. 2005, p. 334, § 25-7/HB 501.

§ 43-47-16. Licensees to furnish certain information to purchasers

All licensees under this chapter who operate salvage pools shall furnish to any person who purchases a motor vehicle the make, model, year, body style, and vehicle identification number of the particular vehicle sold. In the event that the operator of a salvage pool is an insurance company, the claim number of the vehicle shall be furnished to the purchaser in addition to the other required information.

HISTORY: Code 1981, § 43-47-16, enacted by Ga. L. 1995, p. 441, § 1.

§ 43-47-17. Consent to inspection as condition of licensure

Every person required to be licensed under this chapter shall, as a condition of licensure, be deemed to have granted authority and permission to the board, to either division, or to any peace officer to inspect any record or document and any motor vehicle or motor vehicle part or accessory at or on the premises of his or her principal place of business, or any additional place of business, at any reasonable time during the day or night during reasonable business hours.

HISTORY: Code 1981, § 43-47-17, enacted by Ga. L. 1995, p. 441, § 1.

§ 43-47-18. Impoundment of used vehicles displayed for sale at unlicensed facilities

Nothing in this chapter shall be construed to prohibit municipalities or counties, by ordinance or resolution, from authorizing local law enforcement officers to impound used motor vehicles which are displayed for sale at unlicensed facilities, provided that such ordinances or resolutions provide for actual prior notice to the owners of such motor vehicles of such impoundment.

HISTORY: Code 1981, § 43-47-18, enacted by Ga. L. 1995, p. 441, § 1; Ga. L. 1996, p. 1289, § 2.

§ 43-47-19. Sales on consignment basis

No licensee, except any licensed auto auction or salvage pool selling at its regular place of business, shall sell any used motor vehicle on a consignment basis unless the licensee places his or her name on the title at the time of sale and complies with all other applicable laws.

HISTORY: Code 1981, § 43-47-19, enacted by Ga. L. 1995, p. 441, § 1.

§ 43-47-20. Prior rules remain valid

It is the intent of the General Assembly that all parts of rules properly adopted under this chapter and Chapter 48 of this title prior to July 1, 1995, which do not conflict with this chapter shall be valid until such time as they are repealed, revised, amended, or otherwise changed under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

HISTORY: Code 1981, § 43-47-20, enacted by Ga. L. 1995, p. 441, § 1.

§ 43-47-21. Civil penalty; civil actions; right of private action; persons already licensed to make changes at time of renewal of license

(a) Any person, regardless of whether that person is a licensee or not, who commits or causes to be done any act that violates this chapter or fails to do any act or causes to be omitted any act that is required by this chapter shall be subject to a civil penalty not to exceed \$3,000.00 for each violation. A violation of this chapter shall, for the purposes of this Code section, constitute a separate offense as to any motor vehicle or motor vehicle part; and each day during which any person offers for sale, sells, trades, transfers, or

disposes of used motor vehicles or used motor vehicle parts without being licensed pursuant to this chapter shall constitute a separate offense.

(b) The penalty provided in subsection (a) of this Code section and any restitution due to specifically named consumers for violations of this chapter shall be recoverable by a civil action brought by the division, the board, the Attorney General, or any district attorney, solicitor-general, or municipal or county attorney in any superior or state court having proper jurisdiction. The proceeds of any civil penalty shall be remitted to the board by the clerk of the court in which such case is filed; provided, however, that in an action brought on behalf of a county or municipality one-half of the proceeds of such civil penalty shall be paid into the treasury of such county or municipality. The court shall order any restitution recovered on behalf of any consumer to be paid over directly to the consumer by the defendant.

(c) Any person damaged by a violation of this chapter may bring an action against the person committing the violation, regardless of whether that person is a licensee, in any superior court of competent jurisdiction to recover actual, consequential, and punitive damages, attorneys' fees, and court costs.

(d) Any person who is already licensed under this chapter or its predecessor or under former Chapter 48 of this title who will be required as a result of this chapter to make changes in his or her business operations will not be required to make such changes until such time as he or she is required to renew his or her license. Any such changes shall have been completed prior to the granting of any renewal license.

HISTORY: Code 1981, § 43-47-21, enacted by Ga. L. 1995, p. 441, § 1; Ga. L. 1996, p. 748, § 24.

§ 43-47-22. Penalty; injunctions

Any person, firm, or corporation who violates this chapter shall be guilty of a misdemeanor. In addition to such criminal penalty, the board may bring an action to enjoin any violation, actual or threatened, of this chapter notwithstanding the existence of an adequate remedy at law.

HISTORY: Ga. L. 1958, p. 55, § 14; Code 1981, § 43-47-15; Code 1981, § 43-47-22, as redesignated by Ga. L. 1995, p. 441, § 1.

§§ 43-48-1 through 43-48-21.

Repealed by Ga. L. 1995, p. 441, § 2, effective July 1, 1995.

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